

**REMARKS**

This Application has been carefully reviewed in light of the Office Action mailed August 4, 2004. Claims 1-44 are pending in this patent application. The Examiner rejects Claims 1-44. As described below, Applicant believes all claims to be allowable over the cited references. Therefore, Applicant respectfully requests reconsideration and allowance of all pending claims.

**Section 102 Rejections**

Claims 1-6, 9-17, 20-28, 31-38, and 41-44 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,410,732 issued to Ames ("*Ames*"). Applicant respectfully disagrees with this rejection at least because each and every limitation of independent Claims 1, 13, 24, 34, and 44 is not disclosed by *Ames*.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987); M.P.E.P § 2131. In addition, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claims" and "[t]he elements must be arranged as required by the claim." *Richardson v. Suzuki Motor Co.*, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989); *In re Bond*, 15 USPQ 2d 1566 (Fed. Cir. 1990); M.P.E.P § 2131 (*emphasis added*).

Claim 1, as amended herein, recites the following limitations:

A communications system, comprising:  
a mobile unit operable to transmit content;  
a plurality of base transceiver stations, each base transceiver station operable to:  
    receive the content from the mobile unit;  
    determine a value for a metric associated with communications between the mobile unit and the base transceiver station;  
    generate a graded packet including the value and the content;  
and  
    communicate the graded packet; and  
a first router operable to:  
    receive redundant graded packets generated at the base transceiver stations;  
    evaluate the content of the redundant graded packets, wherein

evaluating the content of the redundant graded packets comprises comparing the content of each packet with the content of the other packets or comparing the content of each packet with an expected content;

select one or more of the redundant graded packets in response to the evaluation of the content, wherein selecting one or more of the redundant graded packets comprises selecting one or more packets including the content most common among the redundant packets or selecting one or more packets including content consistent with the expected content; and communicate the selected packets.

Claims 13, 24, 34, and 44 recite similar, although not identical, limitations.

*Ames* does not disclose each and every limitation of Claim 1 (or Claims 13, 24, 34, and 44) at least because it does not disclose, teach, or suggest “comparing the content of each packet with the content of the other packets” or “selecting one or more packets including the content most common among the redundant packets.” The Examiner does not state what in *Ames* discloses comparing the content of each packet with the content of the other packets, although the Examiner states that checking the CRC or validity indication (where an “error packet” comprises “non-common content”) discloses selecting one or more packets including the content most common among the redundant packets. However, the CRC is checked for each packet individually (to see if there is an error in the packet). There is no comparison between the *contents* of each packet. Even if the results of the CRC check (e.g., error or no error) are compared, this is not a disclosure of a comparison of the actual contents of the packets. Furthermore, there is no disclosure of any determination of the most common content based on this comparison or the selection of this most common content.

Furthermore, *Ames* does not disclose, teach, or suggest “comparing the content of each packet with an expected content” or “selecting one or more packets including content consistent with the expected content.” The Examiner states that “expected content” is generally disclosed by “complying with a protocol, or receivers based on reading only data that transmitters can send, e.g., packets comprising ones and zeros and having headers with data such as CRC and signal strength are expected.” However, although packets may need to have a particular format, as the Examiner has indicated, there is no disclosure in *Ames* of *comparing* the content of each packet with an expected content or *selecting* one or more packets including content *consistent with the expected content*. For instance, using the

Examiner's example, all packets would have to have a header and comprise ones and zeros or they would not even be readable by a receiving device. However, this does not mean that the content of the packets is compared to an expected content. The claims clearly call for a comparison step, and simply meeting a transmission protocol so that the packets are in a particular transmission format does not involve such a comparison.

For at least these reasons, Applicant respectfully submits that amended Claims 1, 13, 24, 34, and 44, as well as the claims that depend from these independent claims, are in condition for allowance. Therefore, reconsideration and favorable action are requested.

In addition, Claim 4 recites that the system of Claim 1 further comprises a second router that is operable to "receive redundant graded packets; select one or more of the redundant graded packets based on the value included in each graded packet; and communicate the selected packets to the first router for evaluation and selection of one or more of the selected packets." The Office Action provides no guidance as to where these limitations might be found in *Ames*. Applicant submits that *Ames* does not disclose these limitations. For at least this additional reason, Claim 4 is allowable over *Ames*. Favorable action is respectfully requested.

### **Section 103 Rejections**

Claims 7-8, 18-19, 29-30, and 39-40 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Ames*, as set forth above in view of U.S. Patent No. 2001/0034237 issued to Garahi ("*Garahi*").

Claim 7 recites the following limitations:

The system of Claim 1, wherein:

the content transmitted from the mobile unit comprises temporally encoded content, such that content from the mobile unit included in a packet communicated from a base transceiver station is expressed in relation to content from the mobile unit included in an immediately preceding packet communicated from the base transceiver station; and

the expected content in a packet received from a base transceiver station comprises a content that is consistent with the content in the immediately preceding packet received from the base transceiver station.

Claims 18, 29, and 39 recite similar, although not identical, limitations.

As recognized by the Examiner, *Ames* fails to disclose sending temporally encoded content. However, the Examiner argues that *Garahi* discloses this limitation. First, Applicant notes that the disclosure of sending MPEG data in *Garahi* (in sections 52, 72, and 75) is unrelated to the disclosure of the use of mobile devices to wager (sections 90-93). Furthermore, there is no disclosure in sections 10 and 11 of handoff and signal strength measurements being used to determine a proper base station. Sections 10 and 11 simply refer to determining the location of a mobile device in a wireless network since the device's gambling options are limited based on this location (for legal reasons).

Second, even assuming, for the purposes of argument, that *Garahi* does disclose the transmission of temporally encoded content to and from mobile devices, there is certainly no disclosure of "comparing the content of each packet with an expected content" or "selecting one or more packets including content consistent with the expected content," where the expected content in a packet received from a base transceiver station comprises a content that is consistent with the content in the immediately preceding packet received from the base transceiver station. Thus, even if it would have been obvious to modify *Ames*' data radios to send MPEG data, as suggested by the Examiner, this does not mean it is obvious to perform the recited comparing and selecting steps with respect to this MPEG or other temporally encoded content.

For at least these additional reasons, Claims 7, 18, 29, and 39, as well as Claims 8, 19, 30, and 40 which depend from these claims, are in condition for allowance. Therefore, Applicant respectfully requests reconsideration and favorable action.

**CONCLUSION**

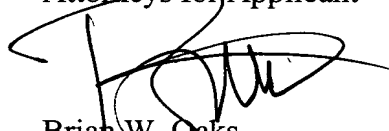
Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicant respectfully requests full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Brian W. Oaks, Attorney for Applicant, at the Examiner's convenience at (214) 953-6986.

Although no fees are believed due, the Commissioner is hereby authorized to charge any fees or credit any overpayment to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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Date: October 20, 2004

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